

CODE OF CONDUCT
FOR NGOs UNDERTAKING ACTIVITIES IN
MIGRANTS' RESCUE OPERATIONS AT SEA

Migration pressure on Italy does not seem to diminish and indeed is even more impressive than last year, as recognized by the Institutions of the European Union and its Member States.

In this context, the main objective of the Italian Authorities in rescuing migrants is the protection of human life and the rights of the people, in full respect of international conventions. Nevertheless, the rescuing activity cannot be separated from a reception path, sustainable and shared with other Member States, in accordance with the principle of solidarity referred to in Article 80 of the TFUE.

On the occasion of the Informal meeting of the Justice and Home Affairs Ministers, held on 6 July in Tallinn under Estonian Presidency, the EU's Interior Ministers welcomed the initiative of the Italian authorities to ensure that the NGO vessels involved in Search and Rescue (SAR) activities operate within a set of clear rules to be adhered to, in the form of a code of conduct to be urgently finalised by the Italian authorities, in consultation with the Commission and in cooperation with the relevant stakeholders, including the NGOs themselves. The Italian initiative has also been included in the "Action Plan on measures to support Italy, reduce pressure along the Central Mediterranean route and increase solidarity" which the European Commission has presented on July 4th.

The Italian Authorities and the signatory NGOs carrying out SAR activities thus share the need to provide for specific arrangements to address the complexity of rescue operations in the Mediterranean Sea, in compliance with

this Code of Conduct, also to safeguard the security of migrants and operators.

The signatory NGOs undertake the following commitments:

- **in accordance with relevant international law, commitment not to enter into Libyan territorial waters, except in situations of grave and imminent danger requiring immediate assistance and not to obstruct search & rescue interventions by the Libyan Coast Guard:** *with a view to not to hinder the possibility of the competent National Authorities to intervene in their territorial waters, in compliance with international obligations.*
- **commitment to respect the obligation not to turn off or delaying the regular transmission times of on-board transponders:** *in order to ensure safety of navigation and security of vessels, including those not involved in the search and rescue event but navigating in proximity of the area, where the event itself takes place;*
- **commitment not to make telephone communications or send light signals** to facilitate the departure and embarkation of vessels carrying migrants, without prejudice to the communications that are necessary in the course of SAR events to preserve the safety of life at sea: *with the intention not to facilitate contacts with migrant smugglers and/or traffickers;*
- **commitment to attest technical suitability** (regarding both equipment and training) for rescuing activities: *NGOs are requested to*

demonstrate their technical abilities in rescuing activities. it is required in order to guarantee their professional know-how in rescuing activities;

- **commitment to ensure that when SAR cases occur where no official SRR is established, the competent Authorities of the flag States for security purposes and the MRCC competent for the nearest official SRR as better place to assist are immediately notified by the ship's master: *information to the flag State qualifies more as a commitment, while notification to the MRCC competent recalls an existing obligation of international law;***
- **commitment not to make trans-shipments on other vessels, ~~either Italian or belonging to international naval assets~~, except in situations of grave and imminent danger requiring immediate assistance, which shall be assessed by the responsible MRCC based on the information provided by the ship's master on a case by case basis: *after the embarkation of survivors, NGO vessels should as a rule complete the operation by disembarking survivors in a safe port under the coordination of the responsible MRCC, except in emergency situations recalled above;***
- **commitment to receive on board, upon request by the competent National Authorities, judicial police officers for information and evidence gathering with a view to conduct investigations related to migrant smuggling and/or trafficking in human beings, it being understood that judicial police officers will ensure not to enter in conflict with the jurisdiction of the flag State, and within the respect of the different mandate and competences of the legal entities involved: *allowing access on board of their naval assets, upon request by the***

competent National Authorities, of police personnel who will conduct preliminary inquiries and investigations, also following specific indications by the competent Judicial Authority;

- **commitment to declare, in conformity with legislation of the flag State, to the competent authorities of the State where NGO is registered** all sources of financing for their rescuing activity at sea and to communicate, upon request, such information to the Italian authorities, in accordance with the principles of transparency;
- **commitment to loyal cooperation with the Public Security Authority of migrants' intended landing location, including** by transmitting relevant information of interest for investigation purposes to the Italian Police Authorities, within the respect of international refugee and data protection law: *such an obligation will result, by way of example and not limited to, in a commitment to provide - at least two hours before the arrival at the port - the documents that should be completed during the phases of rescue and journey to the port, after the primary assistance activities - i.e. the "maritime incident report" (summary document of the event) and the "sanitary incident report" (summary document of health situation on board);*
- **commitment to recover, during the activities, if possible, he makeshift boats and the inboard engines used by migrants' traffickers/smugglers and immediately notify the competent MRCC: such a commitment is an important way of cooperating with MRCC and the competent Authorities against traffickers and smugglers. It also represents an important measure against sea pollution;**

Failure to comply with the commitments set out in this Code of Conduct may result in effective counter-measures, required in the public interest of saving human lives while guaranteeing shared and sustainable reception of migration flows, to be taken by the competent Italian Authorities, subject to compliance with the applicable international and national law. Such measures could include, *inter alia*, safety inspections, requests of producing appropriate certifications or, refusal to allow disembarkations in national ports in non-emergency situations.

Any failure to comply with the commitments set out in this Code of Conduct will be communicated by the Italian Authorities to the flag State and to the State where the NGO is registered.